

AGENDA BILL APPROVAL FORM

Agenda Subject: Resolution No.4527		Date: September 11, 2009
Department: Public Works	Attachments: Resolution No.4527, Easement Agreement, Exhibit A, Exhibit B, Exhibit C, Exhibit D	Budget Impact: \$ 0

Administrative Recommendation:

City Council adopt Resolution No. 4527.

Background Summary:

Resolution No. 4527 authorizes the Mayor to grant a permanent occupation easement to Auburn Regional Medical Center, who is currently constructing a parking garage for which it is necessary to install a foundation drain in the City's right of way to an extent that was not initially contemplated in the plans for the parking garage. The foundation drain will not interfere with pedestrian or vehicle access or with other underground or above ground utilities.

The easement grants the Auburn Regional Medical Center the right to use the easement area to construct, operate, maintain, repair, replace, improve and remove the foundation drains in the right of way.

The easement also reserves the City's right to use the easement area for any purpose that is not inconsistent with the rights granted in the easement, provided that the City will not construct anything that would adversely impact the easement area without written consent of Auburn Regional Medical Center.

This easement will be a covenant running with the land.

W1019-3

O3.10.9

Reviewed by Council & Committees: <input type="checkbox"/> Arts Commission <input type="checkbox"/> Airport <input type="checkbox"/> Hearing Examiner <input type="checkbox"/> Human Services <input type="checkbox"/> Park Board <input type="checkbox"/> Planning Comm. COUNCIL COMMITTEES: <input type="checkbox"/> Finance <input type="checkbox"/> Municipal Serv. <input type="checkbox"/> Planning & CD <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> Other _____	Reviewed by Departments & Divisions: <input type="checkbox"/> Building <input type="checkbox"/> Cemetery <input type="checkbox"/> Finance <input type="checkbox"/> Fire <input type="checkbox"/> Legal <input checked="" type="checkbox"/> Public Works <input type="checkbox"/> M&O <input type="checkbox"/> Mayor <input type="checkbox"/> Parks <input type="checkbox"/> Planning <input type="checkbox"/> Police <input type="checkbox"/> Human Resources
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Action:

Committee Approval: ☐ Yes ☐ No
 Council Approval: ☐ Yes ☐ No
 Referred to _____ Until ____/____/____
 Tabled _____ Until ____/____/____
 Call for Public Hearing ____/____/____

Councilmember: Wagner

Staff: Dowdy

Meeting Date: October 19, 2009

Item Number: VIII.B.1

RESOLUTION NO. 4527

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF AUBURN, WASHINGTON,
AUTHORIZING THE GRANTING OF AN
EASEMENT FOR CONSTRUCTION AND
PERMANENT OCCUPATION OF THE CITY
RIGHT OF WAY IN CONNECTION WITH THE
AUBURN REGIONAL MEDICAL CENTER
PARKING GARAGE PROJECT

WHEREAS, the City Council authorized the sale of certain real property to Auburn Regional Medical Center, Inc., for the purposes of constructing a parking garage building, and further authorized the City to enter into an agreement for the use of a portion of that building; and

WHEREAS, as part of the construction of the building, it is necessary to place foundation drains in the City's right of way to an extent that was not initially contemplated in the plans for the building; and

WHEREAS, after construction is complete, the foundation drains will not interfere with pedestrian or vehicle access, or with other underground or aboveground utilities;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN,
HEREBY RESOLVES as follows:

Section 1. That the Mayor is hereby authorized to grant construction and permanent occupation easements in substantially the same form as Exhibit A, attached hereto and incorporated herein fully, and to add appropriate legal descriptions to substantially correspond to the diagrams attached hereto as Exhibit B.

Section 2. That the Mayor is authorized to implement such administrative procedures, including but not limited to allowing immediate access to the right of way for construction purposes, as may be necessary to carry out the directives of this legislation.

Section 3. That this Resolution shall take effect and be in full force upon passage and signatures hereon.

Dated and Signed this _____ day of _____, 2009.

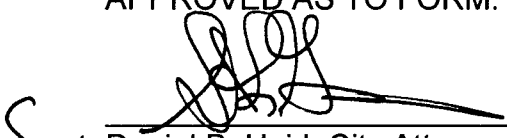
CITY OF AUBURN

PETER B. LEWIS
MAYOR

ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney

EXHIBIT 'A'

After recording return to:
CITY OF AUBURN
ATTN: City Clerk
25 W. Main Street
Auburn, WA 98001

FOUNDATION DRAIN EASEMENT

Reference # (if applicable):	N/A
Grantor/Borrower:	City of Auburn
Grantee/Assignee/Beneficiary:	Auburn Regional Medical Center, Inc.
Assessor's Tax Parcel ID#:	0492000340 (Grantee's Property)

For and in consideration of One Dollar (\$1.00) and other valuable consideration in hand paid, CITY OF AUBURN, a municipal corporation of the State of Washington, ("Grantor" herein), hereby conveys and warrants to Auburn Regional Medical Center, Inc., a Washington corporation ("Grantee" herein), for the purposes hereinafter set forth, a nonexclusive perpetual easement over, under, along across and through the following portion of the Grantor's right-of-way ("Right-of-Way" herein) in KING County, Washington (the "Easement Area"):

LEGAL DESCRIPTION FOUNDATION DRAIN EASEMENT AREA

A PORTION OF LAND LYING WITHIN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., IN THE CITY OF AUBURN, KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL B OF THAT CITY OF AUBURN BOUNDARY LINE ADJUSTMENT RECORDED UNDER RECORDING NUMBER 20080911900016, RECORDS OF KING COUNTY, WASHINGTON;

THENCE NORTH 89°49'10" EAST, ALONG THE SOUTH LINE THEREOF, 20.47 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°49'10" EAST ALONG SAID SOUTH LINE, 216.02 FEET;

THENCE SOUTH 00°10'50" EAST 1.00 FEET;

EXHIBIT 'A'

THENCE SOUTH 89°49'10" WEST 216.02 FEET;
THENCE NORTH 00°10'50" WEST, A DISTANCE OF 1.00 FEET TO THE POINT OF
BEGINNING.

CONTAINING APPROXIMATELY 216± SQ. FT.

1. Purpose. Grantee shall have the right to use the Easement Area to construct, operate, maintain, repair, replace, improve, and remove permanent foundation drains in the City Right of Way in accordance with the document attached hereto as Exhibit A and incorporated herein fully by reference, for the use and benefit of the real property legally described on Exhibit B attached hereto and incorporated herein by this reference ("Grantee's Property").

2. Grantee's Use of Easement Area After Construction. After construction, Grantee's right to use the Easement Area is limited to the existing installed structures. Grantee shall have no right to interfere with pedestrian or vehicle access within the City's Right of Way, and Grantee shall have no right to interfere with the placement, operation, or maintenance of utilities in the Right of Way; Provided, that such other uses shall not unreasonably infringe on Grantee's easement rights.

Following the initial construction of all or a portion of its systems, Grantee may, from time to time, repair or maintain facilities within the Easement Area as it may require for such facilities. Grantee shall have the right of access to the Easement Area over and across the Right of Way to enable Grantee to exercise its rights hereunder. Grantee shall compensate Grantor for any damage to the Right of Way caused by the exercise of such right of access by Grantee.

3. Grantor's Use of Easement Area. Grantor reserves the right to use the Easement Area for any purpose not inconsistent with the rights herein granted; provided, however, Grantor shall not construct or maintain any buildings, structures or other objects that would adversely impact the subsurface Easement Area without the prior written consent of the Grantee.

4. Indemnity. Grantee agrees to indemnify Grantor from and against liability incurred by Grantor as a result of Grantee's negligence in the exercise of the rights herein granted to Grantee, but nothing herein shall require Grantee to indemnify Grantor for that portion of any such liability attributable to the negligence of Grantor.

5. Abandonment. The rights herein granted shall continue until such time as Grantee ceases to use the Easement Area for a period of five (5) successive years, in which event, this easement shall terminate and all rights hereunder, and any improvements remaining in the Easement Area, shall revert to or otherwise become the property of Grantor; provided, however, that no abandonment shall be deemed to have occurred by reason of Grantee's failure to initially install its systems on the Easement Area within any period of time from the date hereof.

6. Successors and Assigns. This easement and the covenants herein shall be covenants running with the land and shall inure to the benefit of and be binding on the successors, heirs, and assigns of both parties hereto, provided that Grantee's rights hereunder shall not be assigned to any other entity (other than any owner or mortgagee of Grantee's Property) without the prior written consent of Grantor which

EXHIBIT 'A'

consent shall not be unreasonably withheld.

EXHIBIT 'A'

DATED this _____ day of _____, 2009.

GRANTOR:

City of Auburn, a Washington municipal corporation

BY: _____

Attest:

BY: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of _____, 2009, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Peter B. Lewis**, and **Danielle E. Daskam** to me known to be the **Mayor** and **City Clerk** of the **City of Auburn**, a municipal corporation that executed the within and foregoing instrument, and acknowledged the same to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned and on oath stated that they are authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

NOTARY PUBLIC in and for the State of Washington,
Residing at _____
My appointment expires _____

EXHIBIT 'A'

EXHIBIT A FOUNDATION DRAIN AREA

DIVISION STREET

CITY OF AUBURN
BOUNDARY LINE ADJUSTMENT (BLA 08-006)
RECORDING NO. 2008091900016

PARCEL B

1ST STREET NW

FOUNDATION DRAIN AREA

216.02'

216.02'

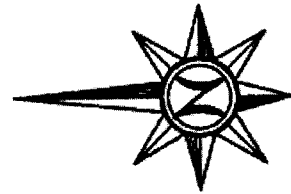
N89°49'10"E

298.95'

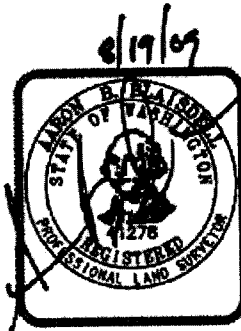
P.O.B.

S.W. CORNER OF PARCEL B

A STREET



GRAPHIC SCALE
40 0 20
1 inch = 40 ft.



PRIZM
SURVEYING INC.
P. O. BOX 110700
TACOMA WA. 98411

ESTABLISHED 1993

OFFICE 253-404-0983
FAX 253-404-0984

CONSTRUCTION LAYOUT - BOUNDARY AND TOPOGRAPHIC SURVEYS

JOB NO. 2008-086

Exhibit B

Grantee's Property

Parcel B, City of Auburn Boundary Line Adjustment Number BLA-08-0006, Recorded under Recording Number 20080911900016, in King County Washington